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NASA Procedural Requirements

NPR 3351.1A
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COMPLIANCE IS MANDATORY

Reduction in Force

Responsible Office: Office of Human Capital Management

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Preface

P.1 Purpose

This NPR establishes, in accordance with applicable laws and regulations, the responsibilities, procedures, and guidelines for conducting reduction-in-force (RIF) for non-SES NASA employees and it also documents the Agency's RIF procedures for removal of members of the Senior Executive Service (SES) to comply with 5 CFR 359.601(c). NASA will conduct such actions based on careful consideration of legitimate management and mission-related requirements. This NPR provides Agency direction to be used in conjunction with the referenced statutory and regulatory requirements. Center Human Resources Offices should be consulted for further information and guidance.

P.2 Applicability

This NPR is applicable to NASA Headquarters, NASA Centers (including Component Facilities), and the NASA Shared Services Center. Unless otherwise indicated, use of the word Center(s) in text of the NPR includes NASA Headquarters and the NASA Shared Services Center. Any reference to Center Director(s) includes the Assistant Administrator for Infrastructure and Administration and the Executive Director, NASA Shared Services Center.

This directive does not apply to the Office of the Inspector General (IG), which has independent authority pertaining to the management of IG human resources under Public Law 95-452.

P.3 Authority

- a. 5 U.S.C. §3504 - Preference eligibles; retention; physical qualifications; waiver
- b. 5 U.S.C. §3595 ? Reduction-in-Force in the Senior Executive Service
- c. 5 CFR Part 351, Reduction-in-Force
- d. 5 CFR Part 359, Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems
- e. 5 CFR Part 430, Performance Management

P.4 References

- a. NPD 3000.1B, Management of Human Resources
- b. NPR 3330.1, NASA Career Transition Assistance Plan (CTAP)
- c. NPD 1440.6G, NASA Records Management
- d. NPR 1441.1D, NASA Records Retention Schedules (w/change 2, 5/17/04)

P.5 Cancellation

NPR 3351.1, Reduction-in-Force (RIF) For NASA Employees, May 07, 1999

/S/
Thomas Luedtke
Acting Associate Administrator
for Institutions and Management

Chapter 1 Responsibility

1.1 Administrator

Unless otherwise delegated, the Administrator retains the authority to approve the following:

- a. The need for a RIF in the SES.
- b. All SES RIF staffing actions.

1.2 Assistant Administrator for Human Capital Management

The Assistant Administrator for Human Capital Management, as the Chairperson, Executive Resources Board, is responsible for the following:

- a. Ensuring that NASA RIFs in the SES are based on concepts of efficiency and effective mission support and are carried out in accordance with governing regulations and NASA policies and procedures.
- b. Developing and implementing Agency procedures for RIF and related personnel functions in the career SES consistent with appropriate laws and Office of Personnel Management (OPM) regulations.
- c. Coordinating the issuance of appropriate notices and other required SES RIF documentation with Executive Position Managers (EPMs) and appointing officials.
- d. Certifying in writing to OPM when SES positions are unavailable in the Agency for the placement of surplus SES employees.

1.3 Center Directors

Center Directors are responsible for:

- a. Determining the need for a RIF for non-SES employees under the administrative authority of their Center. This authority may not be redelegated.
- b. Requesting proposed changes to a competitive area, if appropriate, from the Director, Agency Human Resources Division.
- c. Ensuring that, prior to issuing any type of communication to the workforce or the public involving Center RIF planning, preparation or implementation actions or activities, a copy of the draft communication will be sent to the Director, Agency Human Resources Division for review and approval.
- d. Ensuring that the provisions of applicable collective bargaining agreements related to RIF are followed.

1.4 Director, Agency Human Resources Division

The Director, Agency Human Resources Division, is responsible for the following:

- a. Ensuring that actions taken under RIF procedures are in compliance with regulatory requirements and approving any competitive area for non-SES employees that differs from the default competitive area (as described in paragraph 2.3).
- b. Maintaining liaison with OPM on SES RIF policy and placement offers for affected SES employees.
- c. Reviewing plans to conduct a RIF in the SES and providing advice, recommendations, and technical support for implementation of the RIF process.

1.5 Executive Position Managers (EPMs)

The EPMs, as defined in 3.1.7, are responsible for the following:

- a. Identifying as surplus SES positions in their organization that will be modified or eliminated because of program curtailment, lack of funds, reorganization, reduction in personnel allocation, or any other causes affecting the size or composition of their SES workforce.
- b. Identifying vacant existing positions in their organization as reassignment opportunities for qualified subordinate SES employees occupying surplus positions and effecting reassignment after obtaining any appropriate higher level approval.
- c. To the extent resources and sound management practices allow, recommending the establishment of new SES positions in their organization to which employees in surplus positions can be reassigned.
- d. In the event no placement is possible under 1.5.b. or 1.5.c., giving consideration to terminating the appointment of a subordinate SES employee serving as a reemployed annuitant or on a limited-term or limited-emergency appointment, if the resulting vacancy could be used as a placement to avoid a RIF action involving a career post-probationary appointee.
- e. Forwarding requests for personnel action, along with appropriate documentation to support RIF actions affecting subordinate SES employees, to the Administrator or his/her designee for approval. Certification that SES vacancies, to which executives in surplus positions can be reassigned, neither exist nor can be established within existing resources must be provided as part of the documentation.
- f. Making a concerted effort to reassign SES employees from surplus positions to vacant positions during the complete RIF process, including during the 45-day period of Governmentwide placement assistance provided by OPM for post-probationary employees.

Chapter 2. Reduction-in-Force (RIF) for Non-Senior Executive Service Positions

2.1 Definitions

2.1.1 Competing employee means an employee in Tenure Group I, II, or III.

2.1.2 Performance rating means the written, or otherwise recorded, appraisal of performance compared to the performance standards for each critical and non-critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a summary level within a pattern.

2.1.3 Retention standing means the relative position or standing of an employee in their competitive level based on an employee's tenure of employment (Tenure Group), veterans preference, length of service and performance.

2.1.4 Subgroups are the divisions of a Tenure Group based on employees' veterans preference.

2.1.5 Tenure Group I includes career employees who are not serving a probationary period for initial appointment to the competitive service. Employees serving supervisory or managerial probationary periods are otherwise eligible to be included in this group.*

2.1.6 Tenure Group II includes career-conditional employees, employees serving a probationary period for initial appointment to the competitive service. Employees serving supervisory or managerial probationary periods are otherwise eligible to be included in this group.*

2.1.7 Tenure Group III includes employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments and provisional appointments.*

2.1.8 All other definitions for terms used in this chapter may be found in 5 CFR Part 351.

* See 5 CFR 351.501(b) for complete descriptions of Tenure Groups

2.2 RIF Planning

2.2.1 Each NASA Center affected by RIF will designate to the Director, Agency Human Resources Division, one individual and an alternate to be the primary interface with the Agency Human Resources Division. This person will provide information necessary to satisfy inquiries both from within NASA and from external sources, as well as to provide a focal point for the flow of information between the Center and the Agency Human Resources Division during the RIF action.

2.2.2 The Director, Agency Human Resources Division, will be advised, prior to the issuance of any notices to employees, when any workforce adjustment is planned that may result in the application of RIF procedures. In addition, as soon as tentative information is available concerning RIF actions, the Center Human Resources Office will furnish information to the Director, Agency Human Resources Division, concerning the potential impact of the RIF action.

2.3 Competitive Areas

2.3.1 General. This document fulfills the requirement to establish competitive areas for RIF. Areas that combine employees of more than one Center require the endorsement of all affected Centers. If the competitive area includes functions, programs, or employees who report to officials outside the Center (e.g., an employee whose official duty station is at a Center but who is under the administrative authority of a Headquarters organization), appropriate concurrences are required.

2.3.2 Extent of Area. The default competitive area shall comprise all NASA employees of a Center within a commuting

area who are under the administrative authority of the Center Director. For Headquarters, the default is all NASA Headquarters employees within the same commuting area. When NASA employees within a commuting area are under different administrative authorities, they will be in separate competitive areas even though they may share the same physical location.

2.3.3 Changes to Area. Center Directors may request changes to a competitive area, including establishing a competitive area that differs from the default area defined in 2.3.2. The request, which must provide clear evidence of separate administrative authority, must be submitted to the Director, Agency Human Resources Division. Any change that would occur within 90 days of the effective date of a RIF, which requires OPM approval, must be accompanied by documentation to support the rationale and timing of the requested change.

2.3.4 Publication. Center Human Resources Offices will ensure that designations of competitive areas, including any changes, are made available for review by all affected employees and OPM.

2.4 Commuting Area

Commuting areas for purposes of determining eligibility for severance pay and discontinued service retirement must be established prior to conducting a RIF. Center Directors must list the activities in each commuting area under the Center's administrative authority and submit the list(s) for review and approval by the Assistant Administrator for Human Capital Management prior to conducting a RIF.

2.5 Competitive Levels

2.5.1 General. All NASA positions should be assigned to competitive levels at the time they are classified. Competitive level determinations should be reviewed whenever there is a change in classification (e.g., series and/or grade) or change to the position description (e.g., duties, qualifications, and/or working conditions) that alters the current competitive level assignment. Centers are responsible for ensuring that accurate competitive levels are established and implemented before conducting a RIF.

2.5.2 Competitive Level Codes.

2.5.2.1 All Centers will identify competitive levels using the three character field established in the Federal Personnel Payroll System (FPPS) for this purpose. Centers are free to establish a plan for the assignment of codes that best meets their needs, so long as they ensure it provides for genuine distinctions among different competitive levels.

2.5.2.2 Centers will send competitive level coding plans to the Agency Human Resources Division for quality review before conducting a RIF.

2.5.2.3 The competitive level code shall be recorded on the position description cover sheet.

2.5.3 Competitive Level Definitions.

2.5.3.1 Centers must ensure that competitive level rationales are appropriately documented. Where narrative definitions are required, they need not be lengthy, but must specifically identify the key distinguishing features.

2.5.3.2 A narrative definition is required when:

- a. Positions of the same series and grade with similar duties and knowledge requirements, but with different position descriptions, are assigned to the same competitive level. The narrative description must briefly address why these positions are effectively interchangeable.
- b. Positions of the same series and grade are assigned to different competitive levels. All narrative descriptions must briefly identify the distinguishing features (duties and knowledge required) of the level.
- c. A competitive level consists of a single series, grade, and position number, regardless of the number of incumbents occupying the position.

2.5.3.3 If the Center elects to use a coding system with intrinsic meaning (i.e., where one or more characters of the code refer to a standardized definition that applies across a spectrum of positions, e.g., supervisory responsibilities), it is not necessary to write individual definitions for each level.

2.6 Credit for Performance

This section establishes the Agency policy on crediting employee performance ratings for RIF retention purposes.

2.6.1 Ratings of record shall be used as the basis for granting additional retention service credit in a RIF. No rating of record shall be issued for the purpose of affecting an employee's retention standing.

2.6.2 In this section, ratings of record and summary level patterns are used as defined in 5 CFR 430.208.

2.6.3 The following types of ratings qualify as ratings of record for RIF purposes:

- a. A performance summary rating assigned at the end of the Agency's appraisal period.
- b. A rating of record that has been assigned following completion of the performance improvement period.

2.6.4 To be creditable for purposes of additional retention service credit, a rating of record must have been approved and issued to the employee, with all appropriate reviews and signatures, and must also be on record in the Center Human Resources Office or other designated official site.

2.6.5 An employee's entitlement to additional retention service credit for performance shall be based on the employees three most recent ratings of record received during the 4-year period prior to the date of issuance of RIF notices, except as indicated in paragraph 2.6.8.

2.6.6 The Agency must consider an employee's ratings of record earned in a different agency if the rating occurred within the applicable 4-year period.

2.6.7 The additional retention service credit for ratings of record shall be expressed as additional years of service and shall consist of the mathematical average (rounded in the case of a fraction to the next higher whole number) of the employee's applicable ratings of record.

2.6.8 Additional retention service credit for employees who do not have three actual ratings of record during the 4-year period prior to the date of issuance of RIF notices or the 4-year period prior to the cutoff date for ratings of record shall be determined as follows:

a. An employee who has received at least one but fewer than three previous ratings of record during the 4-year period shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received (and rounded in the case of a fraction to the next higher whole number).

b. An employee who has not received a rating of record during the 4-year period shall receive credit for performance based on the modal rating. A modal rating is the summary level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's official position of record on the date of the RIF.

(2) Given within the employee's competitive area.

(3) On record for the most recently completed appraisal period prior to the date RIF notices are issued or the cutoff date specified prior to the issuance of RIF notices after which no new ratings will be put on record.

2.6.9 Additional service credit will be provided, as follows:

a. For all performance ratings effective prior to April 30, 2005, the following additional service credit will be provided:

Summary Level Pattern	1 Unacceptable	2	3 Fully Successful or Equivalent*	4	5 Outstanding or Equivalent*
A 2	0		12		
B 3	0		12		12
C 3	0		12	12	
D 3	0	0	12		

E 4	0		12	12	12
F 4	0	0	12		12
G 4	0	0	12	12	
H 5	0	0	12	12	12

b. For all performance ratings effective on and after April 30, 2005, the following additional service credit will be provided.

Summary Level Pattern	1 Unacceptable	2	3 Fully Successful or Equivalent*	4	5 Outstanding or Equivalent*
A 2	0		12		
B 3	0		12		14
C 3	0		12	12	
D 3	0	0	12		
E 4	0		12	12	14
F 4	0	0	12		14
G 4	0	0	12	12	
H 5	0	0	12	12	14

c. For all performance ratings effective on and after April 30, 2006, the following additional service credit will be provided.

Summary Level Pattern	1 Unacceptable	2	3 Fully Successful or Equivalent*	4	5 Outstanding or Equivalent*
A 2	0		12		
B 3	0		12		16
C 3	0		12	12	
D 3	0	0	12		
E 4	0		12	12	16
F 4	0	0	12		16
G 4	0	0	12	12	
H 5	0	0	12	12	16

d. For all performance ratings effective on and after April 30, 2007, the following additional service credit will be provided.

Summary Level Pattern	1 Unacceptable	2	3 Fully Successful or Equivalent*	4	5 Outstanding or Equivalent*

A 2	0		12		
B 3	0		12		20
C 3	0		12	12	
D 3	0	0	12		
E 4	0		12	12	20
F 4	0	0	12		20
G 4	0	0	12	12	
H 5	0	0	12	12	20

* NASA's adjective ratings beginning May 1, 2005 are "Meets or Exceeds" and "Distinguished," respectively.

e. If at some future time the NASA summary level pattern changes to a 4 level or 5 level system as depicted by patterns E4 or H5 above, then the amount of performance credit granted when there are multiple summary level patterns in the competitive area may be reconsidered.

2.6.11 The Center Human Resources Officer may determine a cutoff date within a competitive area 90 days prior to the issuance of RIF notices after which no new ratings of record will be put on record and used for purposes of additional service credit for performance. When the cutoff date is used, an employee shall receive performance credit for the three most recent ratings of record received during the 4-year period prior to the cutoff date.

2.7 Discretionary RIF Policies

Federal regulations authorize agencies discretion in various areas of RIF applicability. The list below reflects NASA's policies in these areas. However, Center Human Resources Officers are authorized to deviate from these policies in any RIF for which they have determined such a change is appropriate. In such cases, the Center's RIF ground rules will clearly document the changed policy.

- a. Vacant positions will not be used to satisfy RIF assignment rights.
- b. Qualifications will not be waived in order to place an employee in a vacant position.
- c. Competing employees will not be allowed to displace employees with lower retention standing in the same subgroup when the Agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup.
- d. Employees in Tenure Group III will not be allowed to displace other Tenure Group III employees in lower subgroups.
- e. Competing employees in the excepted service will not be afforded assignment rights.
- f. Reemployed annuitants will be terminated prior to a RIF. They will not be competing employees.
- g. Tie-breakers for retention standing will be based on the randomly selected Social Security number process, as defined in Appendix L of OPM's Delegated Examining Operations Handbook, which is available from OPM's website.
- h. When employees compete to remain in their competitive levels, there will be no intervening displacements. When the position being abolished is occupied by an employee who is not at the bottom of the competitive level, the employee occupying the abolished position will be reassigned to the position occupied by the person with the lowest retention standing. However, a Tenure Group I employee may not be placed in a Tenure Group III position if a Tenure Group II position is a valid offer.
- i. When employees compete for assignment into another competitive level and both a vacancy and an occupied position at the same grade level are valid offers, the vacancy will be offered. If more than one vacancy is a valid offer, any vacancy may be offered.
- j. When two or more occupied positions at the same grade level are valid offers, the offer will be made to the position occupied by the individual with the lowest retention standing. However, a Tenure Group I employee may not be placed in a Tenure Group III position if a Tenure Group II position is a valid offer.

2.8 Reports of RIF Appeals and Grievances

Each Center is responsible for submitting a separate appeal/grievance report to the Director, Agency Human Resources Division, for each RIF. The report must include the number of grievances and appeals filed, withdrawn, sustained, denied, pending, and final adjudication. Negative reports are required.

2.9 Employee Placement Assistance Program

Each Center affected by RIF will ensure that every reasonable effort will be made to assist adversely affected employees in locating employment. At a minimum, this program shall comply with Federal regulations and NPR 3330.1A, NASA Career Transition Assistance Plan. NASA Centers are authorized to go beyond these requirements, as appropriate, to develop local supplemental programs and initiatives to give displaced employees maximum placement opportunities.

2.10 Requests for Voluntary Early Retirement Authority

Center requests for early retirement authorization should be forwarded to the Director, Agency Human Resources Division. Advance contact may be helpful to prepare the package for OPM approval and to determine whether an Agencywide approach is appropriate.

Chapter 3. Reduction-in-Force (RIF) in the Career Senior Executive Service

3.1 Definitions

3.1.1 Reduction-in-Force (RIF). The elimination or modification of a position due to a reorganization, lack of funds or curtailment of work, or due to any other factor. See 5 CFR 359.601(b)(2).

3.1.2 Post-Probationary Career Appointee. A career individual in the SES whose appointment was based on conversion or approval by OPM of his/her executive qualifications and who, as of the effective date of the RIF, has completed or was not required to serve a probationary period under 5 CFR 359, Subpart B.

3.1.3 Probationary Career Appointee. A career individual in the SES whose appointment was based on conversion or approval by OPM of his/her executive qualifications but who, as of the effective date of the RIF, has not completed the 1-year probationary period required under 5 CFR 359, Subpart B.

3.1.4 Competitive Area. For the purposes of RIF in the SES, competitive areas are established for employees permanently assigned to NASA Headquarters and its component facilities and each NASA Center and its component facilities (regardless of duty location). For example, employees assigned to Headquarters, Johnson Space Center, and Glenn Research Center are in three separate competitive areas. In each competitive area, post-probationary and probationary career appointees compete for job retention.

3.1.5 Service Computation Date (SCD). A composite date, determined in the same manner for SES as for General Schedule employees (see 5 CFR 351.503), representing an appointee's total creditable civilian and uniformed service for retention standing in RIF competition.

3.1.6 Performance Rating. An official SES performance rating as reviewed by the Performance Review Board or Senior Executive Committee and approved by the Administrator or a designee, as appropriate. For SES recently transferred from another Federal agency, the current final rating given by the former agency will be used. These are final ratings under 5 CFR Part 430, Subpart C.

3.1.7 Executive Position Managers (EPMs). Officials-in-Charge of Headquarters Offices and Center Directors who have been designated to manage SES positions within their organizational jurisdiction.

3.2 Procedures

3.2.1 Pre-Reduction-in-Force Actions

3.2.1.1 The EPM will propose personnel actions resulting from the elimination or modification of a position due to a reorganization, lack of funds or curtailment of work, or any other appropriate factor. The EPM will make every effort to avoid RIF by reassignment of appointees in surplus positions to vacant SES positions within the immediate organization. In the absence of available vacancies, consideration will be given to placement in positions occupied by limited-term appointees and reemployed annuitants, since such individuals serve at the will of the appointing officer and do not compete in RIF. (However, the availability of such encumbered positions will not prevent the Agency from requesting placement assistance from OPM under 3.2.2.5.) When placement in a vacant SES position is not possible, the EPM must request placement assistance.

3.2.1.2 Requests for placement assistance will be forwarded through the management chain to the Chairperson, Executive Resources Board (ERB). Such proposals must include the following:

- a. A detailed discussion of the circumstances leading to the potential RIF situation, including consideration of reassignment to a position occupied by a limited-term appointee or a reemployed annuitant.
- b. A discussion of the steps taken to avoid the potential RIF situation.

c. Certification that SES vacancies for which employees in surplus positions are qualified neither exist nor can be established within existing resources.

d. Recommendations, if any, regarding appropriate placements in other NASA organizations.

3.2.1.3 The Chairperson, ERB, will identify vacant SES positions outside the organization having the surplus position(s). Affected qualified employees will be referred to the appropriate EPMs for selection consideration. EPM responses will be considered, and placement recommendations will be made to the Administrator. Employees in surplus positions who are not placed will be identified for RIF and will compete for retention and placement as described below.

3.2.2 Implementation of Reduction-in-Force (RIF). Career appointees who occupy surplus positions and who have not been identified for placement by reassignment into SES positions in accordance with paragraph 3.2.1 will be subject to a formal RIF, conducted on the basis of retention competition. The Chairperson, ERB, will provide staff support for the implementation of the RIF process and will direct the preparation of retention registers.

3.2.2.1 Retention Registers. Career appointees who occupy surplus positions are entitled to compete for job retention. A retention register will be compiled of the incumbents of all SES positions within the competitive area. Career appointees, including the incumbents of the surplus positions, will be listed on the retention register in accordance with the retention groups and subgroups described below, based on their standing on the RIF effective date. Veterans preference does not apply.

3.2.2.2 Retention Standing. Career appointees on the retention register are listed by groups and subgroups, with probationary status and performance given primary consideration. Within each subgroup, appointees are listed in descending order of SCDs. Recipients of the Presidential Rank of Distinguished Executive will be placed at the top of the appropriate subgroup for a period of 4 years following the date the White House approves the award. Recipients of the Presidential Rank of Meritorious Executive will be placed at the top of the appropriate subgroup for a period of 2 years following White House approval of the award. All Rank recipients entitled to placement at the top of a subgroup will be listed in descending order of SCDs. Appointees will be assigned to retention subgroups based on an average of their three most recent performance ratings (Outstanding-5; Highly Successful-4; Fully Successful-3; Minimally Satisfactory-2; Unsatisfactory-1). For SES recently transferred from another Federal agency, the current final rating given by the former agency will be used, averaged with the previous two final ratings, if any. Only final SES ratings will be used; therefore, the subgroup for an appointee with only two ratings will be based on an average of the two ratings. The subgroup for an appointee with only one rating will be determined by that rating. SES career appointees will be placed in subgroups in the following order:

a. Group I. Post-probationary career appointees with all performance ratings Fully Successful or higher, listed in each subgroup in descending order of SCDs.

(Note: Eligible Presidential Rank recipients will be placed at the top of each subgroup in descending order of SCDs as described above.)

Subgroup 1A. Appointees with an average rating of 5.0.

Subgroup 1B. Appointees with an average rating of 4.67.

Subgroup 1C. Appointees with an average rating of 4.5.

Subgroup 1D. Appointees with an average rating of 4.33.

Subgroup 1E. Appointees with an average rating of 4.0.

Subgroup 1F. Appointees with an average rating of 3.67.

Subgroup 1G. Appointees with an average rating of 3.5.

Subgroup 1H. Appointees with an average rating of 3.33.

Subgroup 1I. Appointees with an average rating of 3.0.

b. Group 2. Probationary career appointees with all performance ratings Fully Successful or higher, listed in each subgroup in descending order of SCDs.

Subgroup 2A. Appointees with an average rating of 5.0.

Subgroup 2B. Appointees with an average rating of 4.67.

Subgroup 2C. Appointees with an average rating of 4.5.

Subgroup 2D. Appointees with an average rating of 4.33.

Subgroup 2E. Appointees with an average rating of 4.0.

Subgroup 2F. Appointees with an average rating of 3.67.

Subgroup 2G. Appointees with an average rating of 3.5.

Subgroup 2H. Appointees with an average rating of 3.33.

Subgroup 2I. Appointees with an average rating of 3.0.

c. Group 3. Appointees with at least one rating below Fully Successful, listed in each subgroup in descending order of average rating and SCDs.

Subgroup 3A. Post-probationary appointees.

Subgroup 3B. Probationary appointees.

In case of a tie in retention standing, NASA SCD will be used.

3.2.2.3 Displacement and Consequence of Competition

a. If there are appointees on the retention register occupying positions for which the surplus appointee meets the established qualification requirements who are in a lower retention group, or in the same retention group but in a lower retention subgroup based on an average rating at least 1 point lower, the appointee of the surplus position will be offered reassignment to the position of the appointee with the lowest retention standing. The appointee who is displaced may, in turn, displace anyone on the retention register with lower standing as described above. If there are no appointees on the retention register in such positions who have lower retention standing, there is no displacement.

b. Appointees in surplus positions and displaced employees are given consideration for exercise of any assignment right, offers of reinstatement where eligible to a vacant General Schedule position, and where eligible, certification to OPM for placement assistance as described in paragraph 3.2.2.5. The Chairperson, ERB, will ensure that no displacement will be effected without review of the technical qualifications of the surplus appointees by the gaining EPM.

3.2.2.4 Assignment Rights. Although consideration for placement into vacant SES positions occurs as part of the pre-RIF activity, SES career appointees who can displace other appointees through the formal RIF process instead may be offered vacant SES positions within the Agency for which they meet the technical qualifications, at any point in the RIF process.

3.2.2.4.1 If there are fewer vacancies than appointees with assignment rights, the Chairperson, ERB, will recommend to the Administrator the placements to be made, giving priority to post-probationary executives over those still serving a probationary period.

3.2.2.4.2 Appointees who fail to accept a directed reassignment may be removed from the Federal service under adverse action procedures.

3.2.2.5 NASA Certification to OPM and OPM Placement Effort

a. When the Agency is unable to place a post-probationary appointee occupying a surplus position or a post-probationary displaced appointee in a vacant SES position for which he or she is qualified, the Chairperson, ERB, must certify in writing to OPM that no such position is available.

b. OPM has 45 days from receipt of the Agency certification to attempt placement of an identified post-probationary career appointee in any agency. These career appointees remain on NASA rolls during this period. If an appointee declines a reasonable offer of placement (i.e., a career SES appointment in any agency), OPM placement efforts will cease and the appointee may be removed from the SES at the end of the NASA notice period described in 3.2.3.3. Should a vacancy occur for which the appointee is qualified, NASA has continuing placement responsibility during the OPM assistance period.

3.2.2.6 Guaranteed Placement Outside the SES

3.2.2.6.1. If the appointee is not placed in an SES position after the above process has been completed, eligible appointees will be considered for placement outside the SES in accordance with 5 CFR Part 359, Subpart G.

3.2.2.6.2 Appointees who fail to accept a directed reassignment may be removed from the Federal service under adverse action procedures.

3.2.3 Notice to Post-Probationary Appointee

3.2.3.1 Reassignment Notice. Offers of reassignment to other SES positions in the same geographic area will be made at least 15 days prior to the effective date. Offers of reassignment to other SES positions in a different geographic area will be made at least 60 days prior to the effective date.

3.2.3.2 First SES Removal Notice. An appointee identified for RIF, who cannot be placed in another SES position within the Agency, will be given a written notice of removal from the SES at least 45 days before the date of removal and no later than the date of NASA certification to OPM (see paragraph 3.2.2.5) requesting 45-day placement assistance. At a minimum, the notice will specify the following:

- a. The action to be taken and its proposed effective date.
- b. The nature of the competition, including the appointee's competitive area and standing on the retention register.
- c. The place where the appointee may inspect the regulations and records pertinent to the action.
- d. Placement rights within NASA and through OPM.
- e. The appointee's appeal rights, including the time limit for appeal and the location of the Merit Systems Protection Board (MSPB) office to which an appeal should be sent.
- f. The name and telephone number of the individual who is available to provide counseling concerning the appointee's rights.

3.2.3.3 Second SES Removal Notice. An appointee who received the notice described in paragraph 3.2.3.2 will be given a second written notice at least 1 day before removal from the SES. At a minimum, this notice will state the following:

- a. The basis for the removal (e.g., expiration of the 45-day OPM placement period (5 U.S.C. 3595(b)(5)) or declination of a reasonable offer of a position in another agency (5 U.S.C. 3595(b)(4)), including position offered and date declined).
- b. The effective date of the removal.
- c. Placement rights outside the SES and, when applicable, the appointee's eligibility for discontinued service retirement in lieu of placement.
- d. Reminder of the appointee's appeal rights.

3.2.4 Notice to Probationary Appointee

3.2.4.1 Reassignment Notice. Offers of reassignment to other SES positions in the same geographic area will be made at least 15 days prior to the effective date. Offers of reassignment to other SES positions in a different geographic area will be made at least 60 days prior to the effective date.

3.2.4.2 Removal Notice. A probationary appointee identified for RIF and who cannot be placed in another SES position in NASA will be notified in writing prior to the effective date of the action. At a minimum, the notice will specify the following:

- a. Whether the appointee has placement rights to a position outside the SES and if so, the position to which the appointee will be assigned.
- b. Effective date of the action.
- c. The appointee's appeal rights, including the time limit for appeal and the location of the MSPB office to which an appeal should be sent.
- d. The name and telephone number of the individual who is available to provide counseling concerning the appointee's rights.

3.3 Appeal Rights to Merit Systems Protection Board (MSPB)

A career appointee may appeal to the MSPB as to whether the RIF complied with competitive procedures as required by 5 CFR 359.405(a) and 5 CFR 359.602(a).

3.4 Records

All records pertaining to an SES RIF will be kept by NASA for at least 2 years following the effective date of the separation or placement action or until appeals are decided, whichever is later.